

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CEDRIC L. HARVEY **CIVIL ACTION NO. 15-2520-P**
VERSUS **JUDGE FOOTE**
STEVE PRATOR, ET AL. **MAGISTRATE JUDGE HORNSBY**

JUDGMENT

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, and after an independent review of the record, including written objections filed by Petitioner, the Court determines that the findings are correct under applicable law. After the issuance of the Report and Recommendation, this Court allowed Petitioner additional time to submit proof of his exhaustion of state court remedies. In response, Petitioner submitted a ruling from the 1st Judicial District Court which notes that he was adjudicated as a third felony offender and that he was, at that time, awaiting sentencing. See Record Document 18-1. Petitioner has failed to present the Court with documentary evidence demonstrating that he has exhausted state court remedies; rather, the only evidence that has been submitted simply shows that Petitioner was convicted and awaiting sentencing. Accordingly,

IT IS ORDERED that Petitioner's complaint is **DISMISSED WITHOUT PREJUDICE**, for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Rule 11 of the Rules Governing Section 2254 Proceedings for the U.S. District Courts requires the district court to issue or deny a certificate of appealability when it enters a final order adverse to the applicant. The court, after considering the record in this case and the standard set

forth in 28 U.S.C. Section 2253, denies a certificate of appealability because the applicant has not made a substantial showing of the denial of a constitutional right.

THUS DONE AND SIGNED, in chambers, in Shreveport, Louisiana, on this 29 day of August, 2016.

ELIZABETH ERNY FOOTE
UNITED STATES DISTRICT JUDGE

